

[REDACTED]

From: Federico, Richard, LT, DoD OGC
Sent: Friday, May 23, 2008 3:44 PM
To: [REDACTED]

[REDACTED]

Signed By: [REDACTED]

Time to File re: Trial Schedule, Production of Transcript, Production of Discovery)

Please accept this special request for relief in the case of United States v. Mohammed Kamin. The defense respectfully submits the following:

1. The accused was arraigned on 21 May 2008. At this hearing, the military judge stated to the parties that he would provide an order detailing a schedule for trial. This order was provided on 22 May 2008 and details a full schedule for the trial, except the date to begin trial on the merits is to be determined. The first deadline is for submission of "Law Motions," due on 6 June 2008, with notice of intent to submit more than ten law motions due to the Court and parties NLT 1200 hours, 30 May. This request, in response to dates/deadlines set by the military judge, is filed within the time frames established.

JUSTIFICATION:

2. TIME NEEDED TO DEFINE THE SCOPE OF REPRESENTATION. During the arraignment, the accused clearly stated that he does not want me, or any other attorney, to represent him. Thereafter the Court ordered that I will be his counsel for this case. As stated on the record, I require more time to determine how I may ethically represent a client who demands that I not represent him. I am currently unable to determine Mr. Kamin's goals/objectives, other than general statements that he deems the proceedings to be illegitimate and that he intends to boycott. The Court stated during the arraignment that I would be provided time to consult with the Bar of the State of Indiana and my supervising attorneys to seek a resolution to this issue. The Court further stated that the Government should, in writing, provide a brief as to its position and argument concerning this issue and provide discovery to assist the defense in resolving the issue. The Trial Schedule from the Court appears to ignore, if not fully retract, the statements made by the Judge during the hearing, as there is no deadline(s) established or mention of time to resolve this crucial issue. Without a resolution to this issue, I cannot file any motions on behalf of Mr. Kamin, let alone within a deadline less than two weeks away.

3. LACK OF DISCOVERY. Despite being detailed on 7 April 2008, the government has not provided any discovery to the defense. In addition, the government has not yet even filed a motion seeking a protective order, an order which, as represented by the government at the arraignment, is a prerequisite to discovery being provided. It is unconscionable, unethical, and wholly unreasonable that the defense be ordered to file motions, of any type, without having received any information from the government about this case, other than the charge sheet. Notwithstanding the fact that I may be ethically precluded from filing such motions, the defense has no understanding of the volume of evidence or scope of legal issues that may be germane to this case. Mr.

Kamin has been in the custody of the U.S. government for over five years. Presumably, the government, with the full extent of its resources available, has been investigating and building its case against him for that entire time. It follows that once discovery is received, the defense, consisting of one lawyer and one paralegal, must be provided adequate time to thoroughly review the discovery to be able to formulate even a basic case strategy to defend Mr. Kamin. The government must first meet its burden to provide discovery before the defense can even be expected to intelligently respond to any dates for a trial schedule.

RELIEF REQUESTED:

4. The defense respectfully requests as follows:

a. All deadlines and dates established on the trial scheduled be stayed until further notice, pending resolution of the issues described herein;

b. The Court order that the defense be provided with a written transcript of the arraignment hearing, NLT 1200 on 6 June 2008. The transcript is required so that I may be able to determine my ethical responsibilities to Mr. Kamin. The exact words spoken by him are critical to this Analysis and determination;

c. The Court order the government to provide discovery to the defense at the earliest possible date;

d. The Court order the government to provide a written brief on the ethical issues re: representation, to be filed NLT 1630, 18 June 2008; and

e. The Court schedule a hearing for the week of 14-18 July 2008 (exact date/time TBD) wherein the parties may discuss the issues described herein. Thereafter, if able, the parties shall submit to the Court a proposed trial schedule and seek further relief, as needed.

5. The defense attempted to confer with the Prosecution about this matter but was unable to reach them, likely due to their respective travel schedules.

6. The defense stipulates that the request for extensions of time to file serve in the interest of justice. The defense does not stipulate that the requested delay should be attributed to the Mr. Kamin as excludable delay and does not waive the right assert possible speedy trial violations based upon this or future delays in the proceedings. This is because, as stated, I lack authorization from Mr. Kamin to speak on his behalf and the government has not met its initial burden to provide discovery.

Very Respectfully,

Richard E.N. Federico
Lieutenant, JAG Corps, U.S. Navy
Defense Attorney

CAUTION: This communication may be privileged as attorney work product and/or attorney-client communications or may be protected by another privilege recognized under the law. Do not distribute, forward, or release without the prior approval of the sender or DoD OGC Office of Military Commissions, Office of Chief Defense Counsel. In addition, this communication may contain individually identifiable information the disclosure of which, to any person or agency not entitled to receive it, is

or may be prohibited by the Privacy Act, 5 U.S.C. 522a. Improper disclosure of protected information could result in civil action or criminal prosecution.